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Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Situation of African Migrants in Israel

Society for Threatened Peoples is concerned about the situation of African asylum seekers in Israel. Labelled as infiltrators, they are subject to detention and ill-treatment. The majority of them are Eritrean and Sudanese nationals who qualify as refugees under international law. The Israeli government does not provide them with basic rights or social benefits for their refugee status remains unsettled. Asylum claims are not processed at all and if so, they are most likely to be rejected. These practices deprive the refugees of their right to claim asylum under the 1951 Refugee Convention and therefore, constitute a violation of international law.

Over the past years, the government state of Israel has constantly threatened them with prolonged and even indefinite detention without clarifying whether a person is eligible for asylum or not. According to PHR-Israel, up to now Israel has not granted refugee status to any Eritrean or Sudanese, opposing the recognition rate in Europe and the USA with 4 out of 5. Eritrea is a military dictatorship and its government routinely commits human rights abuses on a massive scale. Eritrea's indefinite military service is the main reason for the mass exodus of Eritreans. According to the UNHCR, the severe and disproportionate punishment for desertion or evasion of the military service in Eritrea constitutes persecution. Under Sudanese law it is forbidden to visit Israel, returnees await up to ten years of prison and mistreatment while imprisoned.

In mid 2012, Israel completed a fence along the Egypt-Israeli border for the purpose of keeping out militants and illegal African migrants. This has led to a dramatic decrease in the number of asylum seekers entering Israel since then. To cope with more than 55,000 African asylum seekers in place, the government adopted a policy which has raised increased criticism among the states of the European Union and the US.

In January 2012, Israel amended its Anti-Infiltration Law according to which all persons irregularly entering are defined as infiltrators who can be detained up to three years without trial and clarification whether they are allowed to claim asylum. All persons who have entered Israel since July 2012 have been detained under this law. In total, over 1,750 have been jailed in the Saharonim and Ketziot prisons.

The Israeli High Court of Justice overturned the amendment to the Anti-Infiltration Law on 16 September 2013, stating that the prolonged imprisonment of asylum seekers was unconstitutional. It ruled that the government had to examine each detainee's case individually and release them within 90 days. Notwithstanding, about 1,200 of them were not released. Instead, the Knesset passed a new amendment to the Law on 10 December 2013. It stipulates the detention without trial for a maximum period of one year. Subsequently, it provides an indefinite detention of all asylum seekers in Holot.

Holot is designated as an 'open camp' because the detainees can, in theory, leave the facility. The camp is located in the Negev desert next to the Egyptian border and contains space for 3,300 people. Its designation as an open facility does not reflect the reality in Holot. Holot is operated by the Prison Service. The asylum seekers are not allowed to work and have to check in with the facility authorities three times a day, in the morning, at noon and at night. After 10pm, the gates are closed and it is forbidden to leave the premises. A violation of these conditions results in prison detention. Only for humanitarian reasons a detainee can apply for a 24-hour-leave. The situation set out makes it impossible to leave the remote area, e.g. for a visit to Tel Aviv or elsewhere. In effect, the detainees are stuck in the middle of the desert.

According to Physicians for Human Rights-Israel, the Holot detention facility is "worse than Saharonim". A delegation of PHR visited the facility on 10 January 2014, to evaluate the conditions, the access to health services and the medical condition of the detainees and gave a devastating verdict. The isolation and the absolute lack of perspectives reportedly cause psychological distress. The lack of opportunities for studying, employment and leisure activities cause severe boredom and contribute to increasing despair. The situation of the Sinai torture camp survivors is particularly bad as they are in urgent need of mental rehabilitation. Only a single general doctor visits the facility, not being able to examine all patients and treat them adequately. Moreover, the detainees complain about a lack of food and that they are told to buy additional food out of their own pocket, not being able to do so due to high prices. Finally, it is not permitted

to take purchased food or food received as donation into the camp. Furthermore, the rooms are overcrowded and there are not enough blankets for the cold nights. Many asylum seekers also lack clothes warm enough for the season.

In January this year, asylum seekers started unprecedented protests against the new law. In a 2-day protest march from Holot to Jerusalem and several hunger strikes in Saharonim, they called for the release of all detainees and to process the asylum requests of all Eritrean and Sudanese. About 200 protesters were arrested and about 100 were brought to Saharonim as a punitive measure. The Prime Minister, Benjamin Netanyahu, stated that the protests would not help, the government's line of action would not change as it would continue to fight illegal migration by all means. Precisely, the new law intends the social marginalization of the asylum seekers with the aim to darken any perspective for a future in Israel, thus pressuring them to leave voluntarily. The indefinite detention as a threat and only alternative to 'voluntary' repatriation constitutes a clear violation of the prohibition on refoulement under the 1951 Refugee Convention.

The Eritrean and Sudanese nationals who entered Israel before the 2012 law came into force were not detained. Under a so-called group protection they were granted protection from deportation but not given the opportunity to claim for asylum. This puts them in a difficult situation. The state does not provide adequate support. Without access to medical care and with no permit to work they have to keep up themselves with illegal jobs which makes them prone to exploitation. Under these circumstances it is hard for them to make a living. In December 2013 mass arrests took place. Many asylum seekers were sent to prison for not carrying a valid residence permit, whereas others were ordered to attend Holot within 30 days. Previously a renewal of their temporary residence permit was aggravated or even denied for reasons unknown. The office hours for renewal have been cut down to three times a week for only two and a half hours, frequently causing long lines. As a renewal is required monthly, not everybody gets the possibility to do so.

All in all, the situation of the asylum seekers is horrific. Pursuant to Human Rights Watch Israel, Israel has failed to register any asylum claims of Eritreans and Sudanese for years and thereby failed to grant them the right to seek asylum, which they are entitled to under international law. Only February 2013 it started to register at least some claims. The indefinite detention pressures detainees to sign repatriation forms, although they face the serious risk of harm and persecution in their home countries. The Israeli government has to take into account the reasons why the asylum seekers have fled their countries and give reasonable consideration to every single asylum request on the basis of the values of existing human rights conventions.

The Society for Threatened Peoples therefore calls on the UN Human Rights Council to urge Israel to:

- Comply with their obligations under international law towards the human rights of migrants, the institution of asylum and the principles of refugee protection.

- Instantly end all threats with indefinite detention to pressure the asylum seekers to 'voluntary' repatriation. Stop all deportations to Eritrea and Sudan immediately, on the basis of the justified fear of severe punishment of returnees.

- Allow all of them to claim asylum and process their requests. Release them while their laims are being examined. All asylum seekers should be given a fair hearing.

- Allow the UNHCR to see all detained Eritreans and Sudanese to identify refugees among them.

- Build a fair, accessible and effective asylum system in line with the 1951 Refugee Convention.

- Stop arresting migrants and release all those being held under the new Israeli law. Detention without justification must not be a method of deterring immigration.

- Integrate asylum seekers in different local authorities throughout the country instead of marginalizing them. Develop perspectives and set up infrastructure to integrate them into social life.